

Pollution of the Sea by Oil (Shipping Levy Collection)

No. 133 of 1972

An Act relating to the Levy² imposed in respect of certain
Ships in Australian ports with Oil on board.

[Assented to 2 November 1972]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and
the House of Representatives of the Commonwealth of Australia,
as follows:—

- Short title.** 1. This Act may be cited as the *Pollution of the Sea by Oil (Shipping Levy Collection) Act 1972*.
- Commence-
ment.** 2. This Act shall come into operation on the day on which the
Pollution of the Sea by Oil (Shipping Levy) Act 1972 comes into operation.
- Definitions.** 3. In this Act, unless the contrary intention appears—
- “Australian port” means a place in Australia that is a port for the purposes of the *Customs Act 1901–1971*;
 - “Collector” means a person who is a Collector for the purposes of the *Lighthouses Act 1911–1972*;
 - “foreign-going ship” means a ship employed in trading or going between a place or places in Australia and a place or places outside Australia;
 - “levy” means levy imposed by the Levy Act;
 - “light dues” means light dues payable in accordance with regulations under the *Lighthouses Act 1911–1972*;
 - “oil” means crude oil, fuel oil, diesel oil or lubricating oil;
 - “oil in bulk” means oil in bunkers or tanks, or in bunkers and tanks;
 - “quarter” means a period of three months commencing on the first day of January, the first day of April, the first day of July or the first day of October in any year;
 - “ship” includes every description of vessel used in navigation not ordinarily propelled by oars only;
 - “the Levy Act” means the *Pollution of the Sea by Oil (Shipping Levy) Act 1972*;
 - “tonnage”, in relation to a ship, means the net registered tonnage of the ship.

4. Levy is not payable in respect of a ship for a quarter if, at no time during the quarter, was the ship in an Australian port except for the purpose, in the course of a voyage—

Exemption in respect of ship in an Australian port by reason of an emergency, &c.

- (a) of taking on board water, provisions or fuel to be used by the ship for completing the voyage;
- (b) of engaging or discharging a member of the crew;
- (c) of disembarking a passenger or a member of the crew for urgent medical treatment; or
- (d) of sheltering or undergoing repairs.

5.—(1.) In the application of this Act and the Levy Act in relation to a foreign-going ship in respect of a quarter, regard shall not be had to a time when the ship was in an Australian port during the period, if any, that, in accordance with the next succeeding sub-section, is the exempt period in relation to the ship for the quarter.

Foreign-going ships—exempt periods.

(2.) Where levy is payable in respect of a foreign-going ship for a quarter, the exempt period in relation to the ship for the next succeeding quarter is so much of that succeeding quarter as occurs before the expiration of a period of three months from the earliest time during the first-mentioned quarter when the ship was in an Australian port, other than a time by reference to which levy was not payable in respect of the ship for that quarter.

6. Levy in respect of a ship for a quarter becomes due for payment upon the expiration of the quarter.

Time for payment of levy.

7.—(1.) Subject to sub-section (5.) of this section, there is payable on the first day of a quarter, on account of levy that may become payable for that quarter in respect of a ship, not being a foreign-going ship but being a ship to which the Levy Act applies, an amount equal to the amount of levy that may become so payable.

Payments on account of levy.

(2.) Subject to sub-section (5.) of this section, where—

- (a) on any day in a quarter, light dues become payable in respect of a foreign-going ship, being a ship to which the Levy Act applies; and
- (b) an amount has not previously become payable under this section on account of levy that may become payable in respect of the ship for that quarter,

there is payable on that day, on account of levy that may become so payable, an amount equal to the amount of levy that may become so payable.

(3.) Where—

- (a) a foreign-going ship, being a ship to which the Levy Act applies, is in an Australian port at any time during a quarter; and

- (b) an amount has not previously become payable under this section on account of levy that may become payable in respect of the ship for that quarter,

a Collector may, by notice served on the master of the ship in such manner as is prescribed, require an amount to be paid on account of levy that may become so payable and, subject to sub-section (5.) of this section, there is payable, within such period as is specified in the notice, on account of levy that may become so payable, an amount equal to the amount of levy that may become so payable.

(4.) Where an amount is paid to the Commonwealth under this section on account of levy that may become payable in respect of a ship for a quarter, the amount so paid—

- (a) shall, if levy becomes payable in respect of the ship for the quarter, be deemed to be payment of the levy; or
(b) shall, if levy does not become so payable, be repaid to the master or owner of the ship.

(5.) An amount is not payable under this section on account of levy in respect of a ship for a quarter if the owner or master of the ship satisfies a Collector that levy is not, and is not likely to become, payable in respect of the ship for that quarter.

Persons liable to pay levy and amounts on account of levy.

8. The owner and master of a ship are jointly and severally liable to pay levy that is payable in respect of the ship or an amount that, under the last preceding section, is payable on account of levy that may become payable in respect of the ship.

Recovery of levy and amounts on account of levy.

9.—(1.) Levy, when it becomes due for payment, or an amount that, under section 7 of this Act, is payable on account of levy, is a debt due to the Commonwealth by the person or persons by whom the levy or the amount is payable.

(2.) In proceedings to recover levy in respect of a ship for a quarter, it shall be presumed, unless the contrary is established by the defendant—

- (a) that, at all times when the ship was in an Australian port or Australian ports during the quarter, there was on board the ship a quantity of oil in bulk weighing not less than ten tons; and
(b) that, at no time during the quarter, was the ship in an Australian port, in the course of a voyage, only for a purpose specified in section 4 of this Act.

Enforcement of levy by distress, and detention of ships.

10.—(1.) If levy due for payment in respect of a ship is not paid, a Collector may, without prejudice to any other remedy for the recovery of the levy, enter upon the ship and distrain the goods or equipment belonging to or on board the ship, and detain them until the levy is paid.

(2.) If payment of the levy is not made within the period of three days next following the distress, a Collector may, at any time during the continuance of the non-payment, sell the goods distrained, and apply the proceeds in payment of the levy payable and of all reasonable expenses incurred by him under this section, and shall, on demand, pay the surplus, if any, to the owner or master of the ship.

(3.) A ship in respect of which levy is due for payment may be detained by a Collector until the levy is paid.

(4.) A reference in this section to levy due for payment in respect of a ship shall be read as including a reference to an amount that, under section 7 of this Act, is payable on account of levy that may become payable in respect of a ship.

11. The Governor-General may make regulations, not inconsistent **Regulations.** with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing penalties not exceeding One hundred dollars for offences against the regulations.
